

REMARKS / ARGUMENTS

Status of the Claims:

Claims 41-54 and 59 are currently pending. Claims 41 and 59 have been amended to more clearly set forth the subject matter of the invention. Support for the amendments of claims 41 and 59 is found at page 3, lines 21-22.

Rejections Under 35 U.S.C. §103

Claims 41-54 and 59 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,804,115 to Burton et al. ("Burton") in combination with U.S. Patent No. 3,481,133 to Knopse ("Knopse"). Applicants respectfully submit that these rejections are obviated by the amendment of independent claims 41 and 59.

Burton is directed to a method of combining groups of differently colored filaments from the same spinneret. These filaments are combined and subjected to additional treatment making them useful as carpet yarns. As the Examiner has pointed out, Burton provides no disclosure of simultaneously spinning these filaments from separate spinneret packs as required by the present claims.

The Examiner has cited Knopse as teaching the simultaneous spinning of two groups of filaments from separate spinneret packs. Applicants respectfully disagree with this characterization.

Knopse discloses a mixed shrinkage yarn which includes filaments having different shrinkage rates which may be of different polymers. The disclosure of Knopse provides two methods by which the mixed yarn may be prepared. The first is where the filaments are combined by extrusion from the same spinneret, which is clearly outside the scope of the present invention. The second method is where two separately prepared bundles of filaments may be combined through an air interlacing jet. Knopse does not disclose that the different filaments are prepared simultaneously, and does not disclose that the filaments are prepared from separate spinning packs.

At column 4, lines 41-42, Knopse states, “The different filaments may be combined by extrusion from the same spinneret.” This is the method disclosed in Burton. Knopse also states at column 4, lines 43-44, that “generally it will be more convenient to combine the separately prepared filaments at a later stage.” It is apparent as a possibility that these filaments may be prepared from either the same or by different spinnerets. However, this general disclosure is insufficient to teach that the separate filaments are prepared simultaneously as required by the present invention.

In order to establish a *prima facie* case of obvious, the reference or combination of references must disclose every element of the present claims. However, from the broad disclosure of Knopse, it is not clear that how the separate filaments are prepared. At a minimum, it is clear that Knopse fails to disclose simultaneous spinning of these separate filaments.

The Examiner has attempted to impose the limitations of present claims 41 and 59 on the disclosure of Knopse by stating that “the filaments are prepared separately” means by the use of different spinnerets. However, there is no support in Knopse for this premise. While Knopse implies that the filaments of different shrinkage rates may be prepared separately, Knopse does not specify whether this means separately as in by the use of different spinnerets or whether separately means at a different time, which would permit the same spinneret to be used. The Examiner also mentioned in a previous Office Action that Knopse provides not only the possibility that the filaments are prepared at the same time, but also that they may be prepared at different times. Applicants respectfully submit that these “possibilities” are not sufficient to provide a disclosure of the limitation of the present claims requiring the simultaneous spinning of different filaments. The combination of Burton and Knopse fails to provide a *prima facie* case of obviousness for failing to disclose every element of the present claims. As such, the combination of Burton and Knopse fails as a reference under Section 103.

Assuming, *arguendo*, that Knopse does disclose the simultaneous spinning of two groups of filaments from separate spinnerets, the combination of Burton and Knopse still fail as a proper reference under Section 103 due to a variety of factors. In order to establish a *prima facie* case of obviousness, it is not sufficient to demonstrate that the elements of a claim exist in

the prior art, there must also be some rationale for combining those teachings that must include either and expectation of success or predictable results.

Applicants respectfully submit that the Examiner has not provided any such rationale. At page 3, lines 8-12, the Examiner states, “[to combine Burton and Knopse] would have been obvious...in order to combine the filaments and form a mixed filament yarn.” Applicants respectfully submit that this is impermissible hindsight reconstruction. Burton and Knopse have each already provided a mixed filament yarn. However, neither Burton nor Knopse appreciate or address the challenges that are resolved by the present invention.

Important to consider is that the present invention provides yarns of a fine yarn weight (from about 5 to about 300 dtex) making them suitable for apparel end uses. Although Burton prepares mixed filament yarns that may combine a cationic-dye polyamide with a conventional anionic-dye polyamide, the yarns of Burton have a significantly greater yarn weight as they are suitable for carpet end-uses. The yarn weight of Burton 1800-4000 denier (column 8, line 50) makes these yarns unsuitable for apparel. Knopse discloses yarns suitable for apparel which emphasizes that Burton and Knopse are not properly combinable as they are from non-analogous fields of art.

Preparing fine weight yarns at a high spinning speed includes challenges that are not similarly encountered by the preparation of heavy weight yarns such as Burton's. As pointed out at page 2, lines 15-16, cationic-dye polyamide yarns are more difficult to spin resulting in more yarn breaks and interruptions as compared to conventional anionic-dye polyamides. The present invention has overcome these challenges for fine weight yarns, suitable for apparel end uses by providing a yarn including cationic-dye polyamide filaments and anionic-dye polyamide filaments that are prepared simultaneously from separate spinnerets in a high speed spinning process. By contrast Burton is able to achieve a similar goal for heavy weight yarns using a single spinneret because heavy weight yarns do not have the same process challenges of lighter weight yarns.

Accordingly, reconsideration and withdrawal of the rejections under Section 103 are appropriate and respectfully requested.

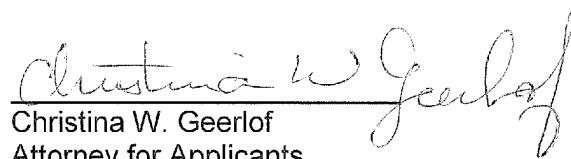
CONCLUSION

For the reasons stated above, claims 41-54 and 59 are believed to be in condition for allowance. Accordingly, Applicant respectfully requests that the Application be allowed. If prosecution may be further advanced, the Examiner is invited to telephone the undersigned to discuss this application.

The Examiner is authorized to credit or debit any fees due regarding this application to Applicant's Deposit Account No. 50-3223 (INVISTA).

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Respectfully submitted,


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